

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

206

CRM-M-32672-2017 (O & M)
Date of Decision:14.01.2019

Karanjit Singh @ Karan

...Petitioner

Versus

Gurpreet Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amardeep S. Gill, Advocate
for the petitioner.

None for the respondent.

MANOJ BAJAJ, J.(ORAL)

Accused-Karanjit Singh has preferred this petition to challenge the order dated 25.07.2017 passed by the Judicial Magistrate Ist Class, Phillaur, whereby cross-examination of 3 prosecution witnesses at the stage of after charge evidence namely CW1 Gurpreet Singh, CW2 Tirath Singh and CW3 Ramanjeet Singh was closed with the observation "Opportunity given - 'NIL'."

Learned counsel for the petitioner has invited attention of this Court to the order dated 24.03.2017 whereby the counsel for the accused had expressed his willingness to further cross-examine the complainant and his witnesses at the stage of after charge. The order dated 24.03.2017 reads as under:-

*“Present: Sh. I. S. Mahi, Advocate for the complainant.
Accused on bail with counsel Sh. N.K. Bhambi and Sh. G. S. Parmar, Adv.
Statement of Shri G.S. Parmar Adv and Shri N.K. Bhambi Advocate counsels for the accused suffered that they went to further cross-examination of the complainant and his witnesses after charge. Now to come up on 31.03.2017 for remaining cross of the witnesses.”*

Thereafter, on 6 occasions, no CW had put in appearance and the matter was adjourned time and again and finally on 25.07.2017, the CWs came present cross-examination, however, the Court had recorded that “Opportunity given – 'NIL'”, meaning thereby that the witnesses were offered for cross-examination, but the defence has chosen not to cross-examine them. Learned counsel has argued that the case was in fact fixed for cross-examination and the trial Court proceeded to close the evidence of the complainant. The trial Court has completely misconstrued the purpose of the presence of the witnesses on 25.07.2017 as it proceeded to close the evidence of the complainant at the stage of after charge. It is apparent from the previous orders that the case adjourned time and again only for the purpose of offering these witnesses for cross-examination to the defence. The examination-in-chief of these witnesses already stood recorded at the stage of pre-charge evidence and therefore, at this stage, closure of the complainant's evidence is meaningless.

At the same time, it is clear that the accused was present in

person, however, his counsel was absent. As the accused was not represented by his counsel who had to cross-examine the witnesses, therefore, the order passed by the Court would cause prejudice to the accused. Learned counsel states that one opportunity is sufficient.

In view of the above, it is ordered that the witnesses be called on a particular date for offering them to the defence for the purposes of cross-examination on the date fixed or any other date to be fixed by the learned trial Court.

Notice was issued to the complainant, who has not shown any interest to contest this petition. Even the counsel Mr. Vikas Kumar, Advocate, who appeared on his behalf pleaded no instructions.

In view of the above, this petition is disposed off.

14.01.2019

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(MANOJ BAJAJ)

JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No